

This funding makes it more likely—obviously not less likely—that employers will continue their retiree benefits. I think I ought to emphasize what \$89 billion happens to be. That is 20 percent of all the money we are putting in this bill for prescription drugs for seniors. Now the Congressional Budget Office estimates that 17 percent of the retirees will not receive supplemental drug coverage from their employers beyond what is offered by Medicare in this bill. We have a different estimate from the Employee Benefits Research Institute that is outside of our government. It is a nationally respected organization that studies retiree benefits. They estimate that that number is going to be much smaller: 2 to 9 percent of the retirees might not receive supplemental coverage from their employer in the future if Congress passes the Medicare benefit.

According to the Employee Benefits Research Institute, if Congress creates a Medicare drug benefit of any kind, some employers will want their retirees to take advantage of that new benefit. This is an important part of the rest of the story. The only way to prevent employers from putting their retirees in the Medicare drug program is if we don't pass legislation such as this, if we say we don't give a darn about the 25 to 30 percent of the people who don't now have prescription drugs and we don't care if they ever have it. That is not the attitude of Congress. That is why this legislation is before us, because we do care about people who can't afford or don't have available a plan for prescription drugs.

For those people, particularly on this side of the aisle, who have been complaining about not doing enough or that passing this bill might cause some corporations to change their health benefits and prescription drugs for their seniors, do they think we should do nothing? No, they don't think so. They are crying because we aren't doing enough. I tell you honestly, we could put \$400 billion, all of this bill, into just those 30 percent of the people in this country who retire from corporations that have a pretty good prescription drug program, probably better than most people have, and I couldn't guarantee anybody in this country that some corporation, big or little, wouldn't dump their programs, just dump them, as they have been doing for 20 years.

Let me be clear, these retirees will not be left without drug coverage. Retirees are not going to lose drug coverage. Why? Because of this bipartisan bill before us. These retirees will still be better off than today, because today when their employer drops coverage, they are left with nothing—no coverage whatsoever. Because of this bill, these retirees will be getting drug coverage from Medicare, and their former employer will likely pay the monthly premium for them. They will still be better off than they would be today where there is no Medicare drug benefit to back them up.

It is also important to recognize that keeping employers in the game lowers the Federal cost of the drug benefit. That is why we are concerned about the taxpayer as well as the corporate retiree. Obviously, if it is dumped, it is going to cost the plan more than if they stay on the corporate plan. So providing this 28 percent subsidy actually lowers the cost of the Medicare benefit. This generous 28 percent subsidy for retiree coverage is good policy. And because it is good policy, it is good politics. This bipartisan bill protects retiree benefits. That has been our goal, and we have accomplished it.

Mr. GRASSLEY. Mr. President, Medicare contractor reform will not succeed if contractors are subject to unlimited civil liability in carrying out the payments, provider services, and beneficiary services functions expected of them. The conference agreement would therefore continue the past policy of limiting the liability of certifying and disbursing officers, and the Medicare administrative contractors for whom those officers serve, with respect to certain payments.

In addition, the language contained in section 911 of the conference agreement clarifies that Medicare administrative contractors are not liable for inadvertent billing errors but, as in the past, are liable for all damages resulting from reckless disregard or intent to defraud the United States. Importantly, the reckless disregard standard is the same as the standard the standard under the False Claims Act. This standard balances the practical need to shelter Medicare administrative contractors from frivolous civil litigation by disgruntled providers or beneficiaries with the Medicare program's interest in protecting itself from contractor fraud.

The False Claims Act, 31 U.S.C. §§3729–3733, applies to Medicare fiscal intermediaries and carriers under current law. This legislation makes it clear that the False Claims Act continues, as in the past, to remain available as a remedy for fraud against Medicare by certifying officers, disbursing officers, and Medicare administrative contractors alike and that, among other things, the remedy subjects Medicare contractors to administrative, as well as trust fund, damages.

ORDERS FOR MONDAY, NOVEMBER 24, 2003

Mr. GRASSLEY. Mr. President, for the leader, I would like to give what is referred to daily as the closing script, if I may.

I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m., Monday, November 24. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consider-

ation of the conference report to accompany H.R. 1, the Medicare modernization bill, provided that the time until 12:30 p.m. be equally divided between the chairman of the Finance Committee or his designee and the minority leader or his designee. I further ask unanimous consent that the cloture vote on the conference report begin at 12:30 p.m. Finally, I ask that the last 10 minutes prior to the vote be allocated to the Democratic leader for 5 minutes, to be followed by the majority leader for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. Mr. President, tomorrow morning we will resume debate on the Medicare modernization conference report. Under the previous order, there will be approximately 3½ hours of debate prior to the cloture vote on the conference report which is locked in to occur at 12:30 p.m. The cloture vote on the conference report will be the first vote of the day. It is my hope and expectation that cloture will be successful. This issue deserves an up-or-down vote. I urge my colleagues on the other side of the aisle to allow this process to move forward.

MORNING BUSINESS

THE FLORIDA CITRUS INDUSTRY

Mr. NELSON of Florida. Mr. President, this week, leaders from thirty-four countries around the Western Hemisphere gathered in Miami for the Free Trade Area of the Americas (FTAA) Ministerial and Americas Business Forum for the purposes of expanding free trade within the Western Hemisphere.

The negotiations at this and future Ministerial meetings will greatly impact my State of Florida.

This event drew large headlines in the papers across the hemisphere as leaders converged upon Miami and anti-globalization protesters gathered outside to voice opposition. In this context, I feel it appropriate to commend Miami-Dade County, the City of Miami, and all the local and Federal law enforcement officers who helped keep the peace during a tense week of negotiations, and everyone who made it a success.

But in light of these talks, I want to share my own concerns regarding the FTAA negotiations, and the path ahead.

These talks did generate positive movement forward, towards greater economic integration in the hemisphere. Trade Ministers agreed to a baseline of minimum standards for a full and comprehensive agreement that takes into account differing levels of development among nations. This framework is a step forward that gives nations flexibility.